

The portion of section 112 of title 28, U.S.C., 1940 ed., relating to venue generally constitutes this section and the parts relating to arrest of the defendant, venue and process in stockholders' actions constitute sections 1401, 1693, and 1695 of this title.

Provision in section 111 of title 28, U.S.C., 1940 ed., that a district court may proceed as to parties before it although one or more defendants do not reside in the district, and that its judgment shall be without prejudice to such absent defendants, was omitted as covered by rule 19(b) of the Federal Rules of Civil Procedure.

Word "action" was substituted for "suit" in view of Rule 2 of the Federal Rules of Civil Procedure.

Word "reside" was substituted for "whereof he is an inhabitant" for clarity inasmuch as "inhabitant" and "resident" are synonymous. (See *Ex parte Shaw*, 1892, 12 S.Ct. 935, 145 U.S. 444, 36 L.Ed. 768; *Standard Stoker Co., Inc. v. Lower*, D.C., 1931, 46 F.2d 678; *Edgewater Realty Co. v. Tennessee Coal, Iron & Railroad Co.*, D.C., 1943, 49 F.Supp. 807.)

Reference to "all plaintiffs" and "all defendants" were substituted for references to "the plaintiff" and "the defendant," in view of many decisions holding that the singular terms were used in a collective sense. (See *Smith v. Lyon*, 1890, 10 S.Ct. 303, 133 U.S. 315, 33 L.Ed. 635; *Hooe v. Jamieson*, 1897, 17 S.Ct. 596, 166 U.S. 395, 41 L.Ed. 1049; and *Fetzer v. Livermore*, D.C., 1926, 15 F.2d 462.)

In subsection (c), references to defendants "found" within a district or voluntarily appearing were omitted. The use of the word "found" made section 111 of title 28, U.S.C., 1940 ed., ambiguous. The argument that an action could be brought in the district where one defendant resided and a nonresident defendant was "found," was rejected in *Camp v. Gress*, 1919, 39 S.Ct. 478, 250 U.S. 308, 63 L.Ed. 997. However, this ambiguity will be obviated in the future by the omission of such reference.

Subsection (d) of this section is added to give statutory recognition to the weight of authority concerning a rule of venue as to which there has been a sharp conflict of decisions. (See *Sandusky Foundry & Machine Co. v. DeLavand*, 1918, D.C.Ohio, 251 F. 631, 632, and cases cited. See also *Keating v. Pennsylvania Co.*, 1917, D.C.Ohio, 245 F. 155 and cases cited.)

Changes were made in phraseology.

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in subsec. (e), are set out in the Appendix to this title.

AMENDMENTS

2011—Subsecs. (a) to (d). Pub. L. 112-63, §202(1), added subsecs. (a) to (d) and struck out former subsecs. (a) to (d) which related to venue when jurisdiction is founded only on diversity of citizenship, when jurisdiction is not founded solely on diversity of citizenship, when a defendant is a corporation, and when an alien is sued, respectively.

Subsec. (e). Pub. L. 112-63, §202(2), inserted subsec. heading, substituted "(A)", "(B)", and "(C)" for "(1)", "(2)", and "(3)", respectively, in first par., designated first and second pars. as pars. (1) and (2), respectively, and inserted par. headings.

Subsec. (f). Pub. L. 112-63, §202(3), inserted heading.

Subsec. (g). Pub. L. 112-63, §202(4), inserted heading.

2002—Subsec. (g). Pub. L. 107-273 added subsec. (g).

1995—Subsec. (a)(3). Pub. L. 104-34 substituted "any defendant is" for "the defendants are".

1992—Subsec. (a)(3). Pub. L. 102-572 inserted before period at end " , if there is no district in which the action may otherwise be brought".

1991—Subsec. (b). Pub. L. 102-198 substituted "in (1)" for "if (1)".

1990—Subsec. (a). Pub. L. 101-650, §311(1), substituted cls. (1) to (3) for "the judicial district where all plaintiffs or all defendants reside, or in which the claim arose".

Subsec. (b). Pub. L. 101-650, §311(2), substituted "may, except as otherwise provided by law, be brought only

if" and cls. (1) to (3) for "may be brought only in the judicial district where all defendants reside, or in which the claim arose, except as otherwise provided by law".

Subsec. (e). Pub. L. 101-650, §311(3), substituted "(2) a substantial part of the events or omissions giving rise to the claim occurred, or a substantial part of property that is the subject of the action is situated, or (3)" for "or (2) the cause of action arose, or (3) any real property involved in the action is situated, or (4)".

1988—Subsec. (c). Pub. L. 100-702 amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: "A corporation may be sued in any judicial district in which it is incorporated or licensed to do business or is doing business, and such judicial district shall be regarded as the residence of such corporation for venue purposes."

1976—Subsec. (e). Pub. L. 94-574 provided that, in actions against the United States, its agencies, or officers or employees in their official capacities, additional persons may be joined in accordance with the Federal Rules of Civil Procedure and with other venue requirements which would be applicable if the United States, its agencies, or one of its officers or employees were not a party.

Subsec. (f). Pub. L. 94-583 added subsec. (f).

1966—Subsec. (a). Pub. L. 89-714, §1, authorized a civil action to be brought in the judicial district in which the claim arose.

Subsec. (b). Pub. L. 89-714, §1, authorized a civil action to be brought in the judicial district in which the claim arose.

Subsec. (f). Pub. L. 89-714, §2, repealed subsec. (f) which permitted a civil action on a tort claim arising out of the manufacture, assembly, repair, ownership, maintenance, use, or operation of an automobile to be brought in the judicial district wherein the act or omission complained of occurred. Present provisions are now contained in subsecs. (a) and (b) of this section.

1963—Subsec. (f). Pub. L. 88-234 added subsec. (f).

1962—Subsec. (e). Pub. L. 87-748 added subsec. (e).

EFFECTIVE DATE OF 2011 AMENDMENT

Amendment by Pub. L. 112-63 effective upon the expiration of the 30-day period beginning on Dec. 7, 2011, and applicable to any action commenced in a United States district court on or after such effective date, and to any action removed from a State court to a United States district court that had been commenced, within the meaning of State law, on or after such effective date, see section 205 of Pub. L. 112-63, set out as an Effective Date note under section 1390 of this title.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-273 applicable to a civil action if the accident giving rise to the cause of action occurred on or after the 90th day after Nov. 2, 2002, see section 11020(c) of Pub. L. 107-273, set out as an Effective Date note under section 1369 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-572 effective Jan. 1, 1993, see section 1101(a) of Pub. L. 102-572, set out as a note under section 905 of Title 2, The Congress.

EFFECTIVE DATE OF 1988 AMENDMENT

Pub. L. 100-702, title X, §1013(b), Nov. 19, 1988, 102 Stat. 4669, provided that: "The amendment made by this section [amending this section] takes effect 90 days after the date of enactment of this title [Nov. 19, 1988]."

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-583 effective 90 days after Oct. 21, 1976, see section 8 of Pub. L. 94-583, set out as an Effective Date note under section 1602 of this title.

[§ 1392. Repealed. Pub. L. 112-63, §203, Dec. 7, 2011, 125 Stat. 764]

Section, act June 25, 1948, ch. 646, 62 Stat. 935; Pub. L. 104-220, §1, Oct. 1, 1996, 110 Stat. 3023, related to defend-

ants or property in different districts in the same State.

EFFECTIVE DATE OF REPEAL

Repeal by Pub. L. 112-63 effective upon the expiration of the 30-day period beginning on Dec. 7, 2011, and applicable to any action commenced in a United States district court on or after such effective date, and to any action removed from a State court to a United States district court that had been commenced, within the meaning of State law, on or after such effective date, see section 205 of Pub. L. 112-63, set out as an Effective Date note under section 1390 of this title.

[§ 1393. Repealed. Pub. L. 100-702, title X, § 1001(a), Nov. 19, 1988, 102 Stat. 4664]

Section, act June 25, 1948, ch. 646, 62 Stat. 935, related to divisional venue in civil cases of a single defendant or defendants in different divisions.

EFFECTIVE DATE OF REPEAL

Pub. L. 100-702, title X, § 1001(b), Nov. 19, 1988, 102 Stat. 4664, provided that: "The amendments made by this section [repealing this section] take effect 90 days after the date of enactment of this Act [Nov. 19, 1988]."

§ 1394. Banking association's action against Comptroller of Currency

Any civil action by a national banking association to enjoin the Comptroller of the Currency, under the provisions of any Act of Congress relating to such associations, may be prosecuted in the judicial district where such association is located.

(June 25, 1948, ch. 646, 62 Stat. 935.)

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., § 110 (Mar. 3, 1911, ch. 231, § 49, 36 Stat. 1100).

Words "Any civil action" were substituted for "All proceedings," in view of Rule 2 of the Federal Rules of Civil Procedure.

Changes were made in phraseology.

EXCEPTION AS TO TRANSFER OF FUNCTIONS

Functions vested by any provision of law in the Comptroller of the Currency, referred to in this section, were not included in the transfer of functions of officers, agencies and employees of the Department of the Treasury to the Secretary of the Treasury, made by Reorg. Plan No. 26 of 1950, § 1, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280. See section 321(c)(2) of Title 31, Money and Finance.

§ 1395. Fine, penalty or forfeiture

(a) A civil proceeding for the recovery of a pecuniary fine, penalty or forfeiture may be prosecuted in the district where it accrues or the defendant is found.

(b) A civil proceeding for the forfeiture of property may be prosecuted in any district where such property is found.

(c) A civil proceeding for the forfeiture of property seized outside any judicial district may be prosecuted in any district into which the property is brought.

(d) A proceeding in admiralty for the enforcement of fines, penalties and forfeitures against a vessel may be brought in any district in which the vessel is arrested.

(e) A proceeding for the forfeiture of a vessel or cargo entering a port of entry closed by the President in pursuance of law, or of goods

and chattels coming from a State or section declared by proclamation of the President to be in insurrection, or of any vessel or vehicle conveying persons or property to or from such State or section or belonging in whole or in part to a resident thereof, may be prosecuted in any district into which the property is taken and in which the proceeding is instituted.

(June 25, 1948, ch. 646, 62 Stat. 936.)

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., §§ 104, 106, 107, and 108, and section 3745(c) of title 26, U.S.C., 1940 ed., Internal Revenue Code (Mar. 3, 1911, ch. 231, §§ 43, 45, 46, 47, 36 Stat. 1100; Feb. 10, 1939, ch. 2, § 3745(c), 53 Stat. 460).

This section consolidates section 3745(c) of title 26, U.S.C., 1940 ed., with sections 104, 106, 107, and 108 of title 28, U.S.C., 1940 ed., relating to venue in civil proceedings to recover and enforce civil fines, penalties, and forfeitures, pecuniary or otherwise. Subsection (a) is based on said section 104 of title 28 and said section 3745(c) of title 26. Subsections (b) and (c) consolidate such sections 106 and 107 of title 28. Subsection (e) is based on such section 108 of title 28.

Subsection (b) substituted words "may be prosecuted in any district where such property is found" for "shall be prosecuted in the district where the seizure is made," to include not only property seized, but also all other property subject to forfeiture.

Words "civil" and "fine" were inserted to make this section applicable to the many provisions of the United States Code for fines essentially civil. (See reviser's note under section 1355 of this title.)

Provisions of section 3745(c) of title 26, U.S.C., 1940 ed., that such suit may be brought "before any other court of competent jurisdiction" were omitted as misleading surplusage, since United States district courts, under section 1355 of this title, have exclusive jurisdiction.

Subsection (d) was added for completeness and clarity.

Changes were made in phraseology.

SENATE REVISION AMENDMENT

While section 3745(c) of Title 26, U.S.C., Internal Revenue Code, is one of the sources of this section, it was eliminated from the schedule of repeals by Senate amendment. Therefore, such section 3745(c) remains in Title 26. See 80th Congress Senate Report No. 1559.

§ 1396. Internal revenue taxes

Any civil action for the collection of internal revenue taxes may be brought in the district where the liability for such tax accrues, in the district of the taxpayer's residence, or in the district where the return was filed.

(June 25, 1948, ch. 646, 62 Stat. 936.)

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., § 105, and section 3744 of title 26, U.S.C., 1940 ed., Internal Revenue Code (Mar. 3, 1911, ch. 231, § 44, 36 Stat. 1100; Feb. 10, 1939, ch. 2, § 3744, 53 Stat. 460).

Section consolidates section 3744 of title 26, U.S.C., 1940 ed., Internal Revenue Code, with section 105 of title 28, U.S.C., 1940 ed.

Words "or in the district where the return was filed" are new. This extension of venue will permit of an action in a district easily determinable for collection of revenue earned in several districts, or States, but the return for which is filed with one collector.

Changes were made in phraseology.

SENATE REVISION AMENDMENT

While section 3744 of Title 26, U.S.C., Internal Revenue Code [1939], is one of the sources of this section, it